

3:09-cr-134

## ORDER


The Court has considered the government’s revised position on retroactivity and the developments in the case law in other jurisdictions and continues to find that the federal savings

statute, 1 U.S.C. § 109, operates to bar retroactive application of the FSA's statutory penalties to offenses committed prior to its enactment, absent congressional indication to the contrary. The Court further continues to find, for the reasons stated at the sentencing hearing, that a sixty-month sentence is necessary to accomplish the sentencing objectives of 18 U.S.C. § 3553(a) if no mandatory minimum is applicable.

**IT IS, THEREFORE, ORDERED,** that the Clerk of Court prepare a judgment imposing a sixty-month sentence of imprisonment along with the other terms previously imposed except the requirement that the defendant repay a portion of his court-appointed attorney's fees.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, to the United States Attorney, and the Clerk of the United States Court of Appeals for the Fourth Circuit.

Signed: May 18, 2012

  
Robert J. Conrad, Jr.  
Chief United States District Judge

